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Date of Submission: November 28, 2007



Alex Grant

Attorney Docket No.: 81000.3000
PATENT APPLICATION

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re: Jacki Müller, Achim Zöllkau, Vera Pohl, Ewa Bednarska and Rainer Süssmann

Group Art Unit: 1616

U.S. Patent Application No. : **09/403,192**
Filing Date : January 13, 2000
For : **PLANT PROTECTION AGENTS**
Examiner : Alton N. Pryor

PETITION TO REQUEST WITHDRAWAL OF THE HOLDING OF ABANDONMENT
UNDER 37 CFR 1.181 (a)

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir/Madam:

Applicant respectfully requests the Withdrawal of the Holding of Abandonment under 37 CFR 1.181 (a). Applicant's representative submitted an Amendment and Rely to an Office Action for the subject application on November 28, 2006. On September 24, 2007, applicant's representative conducted a telephone interview with the Examiner and learned that the subject application was held abandoned due to non-response to the Office Action mailed February 23, 2007. Subsequently, on September 28, 2007, the Examiner provided applicant's representative with, via fax, the non-received Office Action mailed February 23, 2007 and the Notice of Abandonment (herein attached as Exhibit A). The Examiner also informed applicant's representative that September 28, 2007 is the effective mailing date of the Notice of Abandonment. From Exhibit A, it was noticed that the Office Action dated February 23, 2007 and the Notice of Abandonment was mailed to applicant's representative's old correspondence

address. Applicant's representative had submitted a correspondence address change in connection with all the patent cases associated with applicant's representative's firm in the early part of 2006. Nevertheless, a change of correspondence address request is submitted herewith.

MPEP 711.03(c) states: "[i]n *Delgar v. Schulyer*, 172 USPQ 513 (D.D.C. 1971), the court decided that the Office should mail a new Notice of Allowance in view of the evidence presented in support of the contention that the applicant's representative did not receive the original Notice of Allowance. Under the reasoning of *Delgar*, an allegation that an Office action was never received may be considered in a petition to withdraw the holding of abandonment. If adequately supported, the Office may grant the petition to withdraw the holding of abandonment and remail the Office action. That is, the reasoning of *Delgar* is applicable regardless of whether an application is held abandoned for failure to timely pay the issue fee (35 U.S.C. 151) or for failure to prosecute (35 U.S.C. 133)".

Pursuant to *Delgar*, applicant's representative hereby declares that the Office Action mailed February 23, 2007 was not received by applicant's representative. In addition, applicant's representative attests to the fact that a search of the file jacket and docket records indicates that the Office Action mailed February 23, 2007 was not received. A copy of the docket record for the subject application where the non-received Office Action mailed February 23, 2007 would have been entered had it been received and docketed is attached herewith as Exhibit B.

Early withdrawal of the holding of abandonment of the subject patent application and the reissuance of the non-received Office Action having a new mailing date is respectfully requested. USPTO personnel are invited to contact the undersigned if there are any unmet requirements or if additional information is required.

Respectfully submitted,



Victor N. King
Registration No. 55,963

Date: November 28, 2007

SPECKMAN LAW GROUP PLLC

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